

AGGRAVATING AND MITIGATING CIRCUMSTANCES

“This list of aggravating and mitigating factors is non-exhaustive and illustrative only. The weight given to each factor by the sentencing authority [UPPAC/the Board] will vary in each case. Any one factor could outweigh some or all other factors.” (2013 Adult Sentencing and Release Guidelines, Form 2 Aggravating and Mitigating Circumstances)

UPPAC Discipline (2014) <i>MITIGATING CIRCUMSTANCES</i>	UPPAC Adaptation for Educator Discipline (2014) <i>AGGRAVATING CIRCUMSTANCES</i> Only use aggravating circumstances if they are not the part of the misconduct.
1. N/A. This is not a factor the Commission considers mitigating in the education context.	____ 1. Established instances of repeated misconduct reported to UPPAC.
____ 2. Educator acted under strong provocation. (This circumstance will not carry much weight because of the power difference involved between the educator and the student, but may be considered.)	____ 2. Multiple incidents of misconduct not previously reported to UPPAC.
____ 3. There were substantial grounds to excuse or justify educator’s behavior, though failing to fully excuse the violation.	____ 3. Educator presents a serious threat to students.
____ 4. Educator is young and new to the profession.	____ 4. Students were directly involved. ____ 4a. Student was particularly vulnerable.
____ 5. Educator assisted investigators in the resolution of other UPPAC cases.	____ 5. Physical Injury to student was unusually extensive. (Property loss is rarely a UPPAC case.)
____ 6. Rehabilitation is only possible through greater classroom experience, under approved supervision. (This factor is only considered if there is also no serious harm or threatened harm to students and if #7 applies.)	6. N/A (This circumstance doesn’t translate well from the criminal context to the education context.)
____ 7. Educator’s attitude reflected humility and recognition of the consequences of his misconduct. ____ 7a. Educator’s attitude suggests amenability to supervision and training in a school setting.	____ 7. There were violations of multiple standards of professional conduct.
____ 8. Educator has been an exceptionally good educator with no prior disciplinary actions. (This factor is only considered if there is also no harm or threatened harm to students.)	____ 8. Educator’s attitude does not reflect recognition of consequences of misconduct.
9. N/A. The Commission does not consider whether suspension or revocation would entail excessive hardship on the educator or dependents.	____ 9. Educator continued misconduct subsequent to employment action and/or notification to UPPAC.
____ 10. Educator has an extended period of misconduct-free classroom time. (In other words, the misconduct occurred well before the investigation began and educator has not engaged in misconduct since the initial misconduct.)	10. N/A (A sex offense by an educator is a statutory revocation and therefore aggravating and mitigating factors don’t apply.)
____ 11. Educator was a less active participant in a larger offense. ____ 11a. Educator’s supervisor or a person in authority directed and/or approved (implicitly or explicitly) of the educator’s conduct.	____ 11. Educator was in a position of authority over the school, e.g, an administrator. (All teachers are in positions of authority over students and therefore, this is already an element of the offense.)
____ 12. All incidents of misconduct arose from a single episode.	____ 12. If financial mismanagement case, amount of money mismanaged was significant.
13. N/A. This is not a factor the Commission considers mitigating in the education context.	13. N/A. (A murder/homicide offense would result in revocation and therefore aggravating and mitigating factors don’t apply.)

____14. Educator voluntarily sought treatment and/or made restitution.	____14. Educator's misconduct has a significant negative impact on the LEA and/or the community.
____15. Training and/or policies that might have prevented the misconduct were inadequate or insufficient.	____15. Students witnessed educator's misconduct, but were not directly involved.
____16. Other (Specify)_____	____16. Educator was not honest and/or cooperative in the course of the investigation.
	____17. Educator was convicted of criminal activity for the misconduct.
	____18. Educator failed to self-report where required.
	____19. Other (Specify)_____